

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

IN THE MATTER OF:

TCI RECYCLING SUPERFUND SITE,

TCI of NY, LLC, TCI Realty of NY, LLC,
EPS Industries, LLC, and
Power Substation Services, LLC,

Settling Parties

PROCEEDING UNDER SECTION 122(h)(1)
OF CERCLA, 42 U.S.C. § 9622(h)(1).

U.S. EPA Region 2

Docket No. CERCLA-02-2015-2026

CERCLA SECTION 122(h)(1) SETTLEMENT FOR DEMAND AMOUNT

1. This Settlement for Demand Amount (“Settlement”) is entered into pursuant to the authority vested in the Administrator of the U.S. Environmental Protection Agency (“EPA”) by Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. § 9622(h)(1), which authority has been delegated to the Regional Administrators of EPA by EPA Delegation No. 14-14-D and was further delegated in EPA Region 2 to the Director of the Emergency and Remedial Response Division by Regional Order No. R-1200, dated November 23, 2004.

2. This Settlement concerns the TCI Recycling Superfund Site (“Site”) located at 39 Falls Industrial Park Road, Town of Ghent, Columbia County, New York. The Site contained a hazardous materials recycling facility that was destroyed in an August 2012 fire. EPA alleges that the Site is a “facility” as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

3. The parties to this Settlement are TCI of NY, LLC, TCI Realty of NY, LLC, EPS Industries, LLC, Power Substation Services, LLC (“Settling Parties”), and EPA, collectively referred to as “the Parties.” This Settlement is binding upon EPA and upon Settling Parties and their successors and assigns.

4. On August 2, 2012, EPA was notified of a fire that resulted in releases and/or threatened releases of hazardous substances at or from the Site. EPA promptly mobilized on-Site with its Removal Support Team contractor and undertook a removal action at the Site (“the Removal Action”) pursuant to CERCLA. EPA incurred response costs pursuant to Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), for the Removal Action.

5. On July 20th and August 18, 2015, EPA issued a demand for payment of \$60,392.44 to Settling Parties for the full amount of response costs incurred by EPA at or in connection with the Site as of May 31, 2015. The demand letter included a demand for EPA's direct and indirect costs paid as of May 31, 2015 at or in connection with the Site plus accrued "Interest" on all such costs from the date of demand (such costs and interest thereon are herein collectively referred to as "EPA's Response Costs"). For purposes of this Settlement, "Interest" means interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund, in accordance with 42 U.S.C. § 9607(a).

6. EPA alleges that Settling Parties are responsible parties pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and are jointly and severally liable for EPA's Response Costs.

7. Within 21 calendar days of the "Effective Date" as noted in Paragraph 18, Settling Parties shall pay \$60,561.21, which represents the total amount of EPA's demand of \$60,392.44 plus \$168.77 in Interest accrued from the date of the demand through the date of payment, assuming such payment occurs by September 30, 2015. If the 21st calendar day after the Effective Date falls on a Saturday, Sunday, or federal holiday, the due date shall be the close of business of the next working day.

8. Settling Parties shall make payment to EPA by Fedwire Electronic Funds Transfer ("EFT") to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street, New York, NY 10045
Field Tag 4200 of the Fedwire message should read: "D 68010727 Environmental Protection Agency"

9. EPA will deposit the total payment into the EPA Hazardous Substance Superfund.

10. At the time of payment, Settling Parties shall send notice that payment has been made to Marla E. Wieder, Assistant Regional Counsel, U.S. EPA, Region 2, at "wieder.marla@epa.gov" and to the EPA Cincinnati Finance Center at "cinwd_acctsreceivable@epa.gov". Such email notice shall reference Site/Spill ID Number A21Y and the EPA docket number for this matter CERCLA-02-2015-2026.

11. If Settling Parties fail to make the payment required by Paragraph 7, above, Interest shall continue to accrue on the unpaid balance from the date of demand through the date of payment, and Settling Parties shall pay to EPA, as a stipulated penalty, \$500 for each day that payment is late for the first day through twentieth day, and \$1,000 for each day for the twenty-first day and beyond. Any such stipulated penalties are due and payable within 30 days after the date of demand for payment of the penalties by EPA. Penalties shall accrue as provided above regardless of whether EPA has notified the Settling Parties, but payment need only be made upon demand.

12. EPA covenants not to sue or take administrative action against Settling Parties pursuant to Section 107(a) of CERCLA to recover EPA's Response Costs. This covenant is effective on the Effective Date and is conditioned on Settling Parties' payment in accordance with this Settlement. This covenant extends solely to Settling Parties and does not extend to any other person.

13. EPA reserves all rights against Settling Parties with respect to all other matters, including but not limited to: (a) liability for failure to make payment as required by this Settlement; (b) liability for costs incurred or to be incurred by the United States that are not within the definition of EPA's Response Costs; (c) liability for injunctive relief or administrative order enforcement under Section 106 of CERCLA, 42 U.S.C. § 9606; (d) criminal liability; and (e) liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments. EPA further reserves all rights as to any matter relating in any way to the Site against any person who is not a party to this Settlement.

14. Settling Parties covenant not to sue and agree not to assert any claims or causes of action against the United States (including its departments, agencies, and instrumentalities), or its contractors or employees, with respect to EPA's Response Costs, EPA's response actions taken at the Site, or this Settlement, including, but not limited to, any claim against the Hazardous Substance Superfund. This Settlement does not constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

15. The Parties agree that this Settlement constitutes an administrative settlement pursuant to which Settling Parties have, as of the Effective Date, resolved liability to the United States within the meaning of Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), and is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, or as may be otherwise provided by law, for the "matters addressed" in this Settlement. The "matters addressed" in this Settlement are EPA's Response Costs. The Parties further agree that this Settlement is an administrative settlement pursuant to which Settling Parties have, as of the Effective Date, resolved liability for EPA's Response Costs to the United States within the meaning of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B).

16. This Settlement does not constitute an admission of any liability by Settling Parties. Settling Parties retain the right to contest all findings and allegations contained in this Settlement, except in any proceeding to implement or enforce the terms of this Settlement.

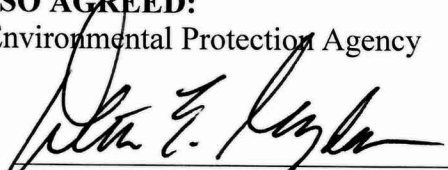
17. Each signatory to this Settlement certifies that he or she is authorized to enter into this Settlement and to bind legally the party represented by him or her.

18. This Settlement shall be effective on the date of signature by EPA (the "Effective Date"). On that date, EPA will notify Settling Parties by email that payment is due in accordance with Paragraph 7.

IT IS SO AGREED:

U.S. Environmental Protection Agency

By:


Walter E. Mugdan, Director, Director
Emergency and Remedial Response Division
U.S. E.P.A., Region 2

 October 7, 2015
Date

NAME & ADDRESS OF SETTLING PARTY:
(please print or type)

Power Substation Services LLC
EBS Industries LLC

NAME & TITLE OF SIGNATORY:
(please print or type)

4 Industrial Park Drive
Wherry NJ 26003
Keith R Reed - member

Keith R Reed
Signature

9/30/15
Date

NAME & ADDRESS OF SETTLING PARTY:
(please print or type)

TCI OF NY, LLC / TCI RAIT OF NY
99 Coertmans Industrial Park Lane
Coertmans NY 12045

NAME & TITLE OF SIGNATORY:
(please print or type)

BRIAN Hemlock - member

Brian Hemlock
Signature

9-30-2015
Date

NAME & ADDRESS OF SETTLING PARTY:
(please print or type)

NAME & TITLE OF SIGNATORY:
(please print or type)

Signature

Date

NAME & ADDRESS OF SETTLING PARTY:
(please print or type)

NAME & TITLE OF SIGNATORY:
(please print or type)

Signature

Date